

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
Service Rules for the 698-746, 747-762)	
and 777-792 MHz Bands)	WT Docket No. 06-150
)	PS Docket No. 06-229
Implementing a Nationwide, Broadband,)	
Interoperable Public Safety Network in the)	
700 MHz Band)	

REPLY COMMENTS
of
Directions

July 7, 2008

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It is clear from a thorough review of comments submitted by a wide variety of parties representing public safety, wireless operators, manufacturers, and various individuals and associations that the overwhelming majority of stakeholders believe the FCC “got it right” in both proposing a nationwide, public safety broadband network operated through a private/public partnership and in establishing a multi-member Public Safety Broadband Licensee (PSBL). The FCC, working closely with this entity, is best positioned to evaluate the merits of the current composition of the PSBL and should retain and/or modify this PSBL in such a manner that ensures public accountability, responsibility and transparency. While various comments provide provided commentary regarding the composition of this private/public partnership¹, the fundamental model appears to be the only viable mechanism for getting broadband into the

¹ Comments of APCO, p.16-25, Comments of NPSTC, p. 18, Comments of PSST, p. 45-59

hands of the majority of public safety and first responder users. Without this nationwide effort, a expanding element of “haves” and “have nots” will emerge in the arena of high speed, broadband available within the public safety community. Therefore, the FCC should retain this structure going forward and take an active role in resolving the minor differences that remain regarding composition and governance.

It is equally clear that stakeholders generally agree that the Public Safety Spectrum Trust (PSST/PSBL)² will require access to outside expertise and services to fulfill the broad responsibilities defined by the FCC, provided that such services do not result in conflicts of interest. Currently, members of the PSST are individuals representing associations. These individuals have full time, public safety jobs. As individuals who represent public safety and first responder entities, few of these individuals have, nor should anyone expect them to have, backgrounds that allow them to evaluate highly technical or legal interpretations of the issues facing them in this highly technical endeavor. Equally, the mere logistics of dealing with the press of business that will, without question, face the PSST/PSBL in the early phases of implementation of a nationwide broadband network, require time commitments that cannot be reasonably expected of individuals who have full time jobs within the public safety and first responder community. Therefore, it is thus imperative that the FCC recognize the critical need for the PSST/PSBL to be able to retain advisory services from outside parties where it deems necessary or appropriate. As with the composition of the PSST/PSBL, the FCC may well be best positioned determine whether additional limitations in this area are required to serve the public interest.

Evaluating comments related to both the PSST/PSBL, there appears to be consensus that the First Report and Order failed to adequately address the issue of funding.³ While the Commission required a number of tasks of the PSST/PSBL, there was no corresponding requirement for a funding mechanism the PSST/PSBL activities. To that end, the PSST/PSBL was forced to seek out alternative sources of funding to address even the most mundane of tasks required within its license. While the resultant funding stream has received less than favorable comments from a number of parties⁴, few of these comments generated outside public safety have acknowledged the dilemma faced by the PSST/PSBL. Thus, it is imperative that the Commission clearly reevaluate future requirements of the PSST/PSBL that are consistent with funding available to the PSST/PSBL. While it is not clear as to all the options available to the Commission, if possible, consideration should be given to tapping into

² Comments of PSST p. 49, Comments of APCO , p 16-18

³ Comments of PSST p.50, Comments of APCO, p 16-17

⁴ Comments of Verizon, p. 34-37

revenues generated from pending auctions, to provide a funding stream that will allow the PSST/PSBL to operate in an independent and transparent manner as intended.

A number of comments also focused on the Statement of Requirements (SOR) used by the PSST/PSBL during the first auction⁵. Clearly, there is a critical need for a well defined, reasonable set of requirements/expectations for network requirements if any party is to seriously consider a bid in any future auction. As a participant in the process that ultimately led to the current PSST SOR, I can state that this document was developed in an extremely compressed timetable that did not provide adequate time for impact analysis. While a number of industry participants were invited to the SOR development meeting, the tightly compressed time schedule did not allow for an adequate process to allow for the evaluation of the impact of the requirements that were ultimately defined. For each requirement, there is clearly an impact to the cost and design of a network that must be considered, especially in a public/private partnership model.. From my involvement in SOR development effort, it is my perspective that the compressed time schedule for this document did not allow for a critical and fundamental impact analysis by qualified, informed reviewers of the requirements. The Commission should consider a mechanism, whether within the Commission (e.g. OET) or through a sponsored workshop, to reevaluate the SOR document. Both public safety and industry participation in such an event is critical to ensure that each element within a new SOR has clearly defined cost/engineering consequences.

A number of comments call for an RFP⁶ submission as an alternative to the current auction model. This concept has merit, but it also contains unintended consequences. While an RFP process would allow the opportunity to select from a range of proposals that might emerge from potential participants, such an action appears to be outside the current Congressional mandate. Thus, changing the current requirement for the pending auction vehicle to an RFP model would appear to require congressional action, which equates to additional time and delay. Such a change will only increase delays in the national build out and lead to increased calls for allowing the build out of independent broadband systems that are already long overdue to local public safety and first responders⁷. The greater the number of local systems that might be built through waivers (especially if there is no predefined technical standard), the greater the potential for a fragmented, piecemeal set of incompatible systems.

While trying to avoid the technical elements of comments provided by a number of parties, several comments “got it right” in identifying the misguided emphasis

⁵ Comments of APCO, p. 25-34, Comments of NPSTC p. 26-50, Comments of PSST 27-31

⁶ Comments of AT&T Wireless, p. 5

⁷ Comments of City of Philadelphia, Comments of City of San Francisco

that the Commission placed on selection of a 4G technology⁸. While LTE and WiMax may well serve as the “ultimate” path for the public safety broadband network, neither is ready for prime time. Calls for immediate selection of LTE⁹ is premature at this time. Existing 3G technologies, including CDMA EV-DO Rev A and WCMA HSPA technologies offer immediate solutions that provide fully operational broadband technology supported by a variety of manufacturers, with a wide base of terminal products provided by a wider base of manufacturers. The Commission should reconsider its position on this technical element and evaluate the opportunities offered by current technologies, as well as the adverse impact of the delays that will surely occur getting 4G products into the hands of public safety and first responders in a timely manner.

A number of comments also identified the unintended consequences of the anti-collusion rule that was incorporated into the first auction . While the anti collusion rule made sense for the A, B, C and E blocks, there was a failure to recognize the fundamental difference in those blocks when compared to D Block. By its very nature, the D Block has a fundamental distinction from the other blocks of spectrum in the auction. Instead of limiting “collusion,” the Commission should have considered encouraging collaboration and partnership building. Nowhere is the case for this collaboration more clear than in the comments of various rural carriers who denote the value they could contribute to the nationwide public safety broadband network, while simultaneously bringing wireless broadband services to the grossly underserved rural community. Numerous comments appear to support the notion that a wide-ranging partnership between various carriers, manufacturers, and others may well be the only solution for a nationwide public/private partnership.

Several comments highlighted the important and useful role that Critical Infrastructure, particularly public utilities, can play in the development of a nationwide public safety network.¹⁰ Considerably more emphasis should be given to an expanded inclusion of Critical Infrastructure as a partner in the proposed nationwide network, as they (1) clearly provide a critical role in the restoration of public safety communication services following major disasters (hurricanes, fires, floods, earthquakes, etc), and (2) place relatively low use on the system, but bring some of the most extensive existing infrastructure that could facilitate build out of rural elements of the proposed nationwide network. Public safety is beginning to acknowledge greater understanding of the role of Critical Infrastructure in disaster recovery. Limiting Critical Infrastructure only to major events, however, is shortsighted and may well not entice Critical Infrastructure as an engaged stakeholder.

⁸ Comments of Qualcomm, p 2-6, Comments of CDMA Development Group, p 1-3

⁹ Comments of Ericsson, p 13-15, Comments of AT&T, p 10

¹⁰ Comments of APCO, p.9, Comments of NPSTC p. 11

Several comments focused on fundamental auction restructuring, including elements that would discourage/prohibit certain players from participating¹¹. Whether dealing with the issue of spectrum holdings or service requirements such as wholesale access, each restrictive element merely narrows the field of potential bidders. Emphasis should be placed on factors that will encourage bidders, not restrictions. While there are recognized issues with spectrum caps for major players, the pending auction should remove any/all barriers that would discourage/disallow any qualified bidder. In the end, the value of the public good should outweigh concerns over who owns a given block of spectrum. The “have nots” had an opportunity to become a “have” in the past auction. The conscious decision to refrain from becoming a “have” should not preclude any qualified bidder from providing this essential public safety service. Given the current market situation and the critical needs of public safety users for access to reliable broadband service, restrictions on eligible bidders will only limit an already narrow field.

Last, and of great concern, a number of comments called for the FCC to consider a “Plan B” in the event of a failure of a second auction of the D Block. Consideration of such a plan creates a clear and certain opportunity for a failure of the next auction of the D Block. While there were a number of factors that produced the “failure” of the previous D Block auction, it is relatively clear that a host of rumors and speculation about the demise of the auction prior to the end of the first week of the auction cycle created enough doubt and speculation of “what comes next after this failure” to ensure that the auction would indeed fail. Why bid under one set of rules if one can wait until the rules are changed to a more favorable climate? While there is no guarantee that the pending D Block auction will result in successful outcome, a defined path for “Plan B” almost ensures that some players will game the auction to that end.

¹¹ Comments of Rural Cellular Association, p. 3